

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HORACE ALEXANDER,
SPN #214418,
Plaintiff,

v.

DR. MININO,
Defendant.

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CIVIL ACTION NO. H-06-3630

MEMORANDUM AND ORDER

Plaintiff Horace Alexander (SPN #214418) is an inmate in custody of the Harris County Jail. Alexander has filed a complaint under 42 U.S.C. § 1983, alleging violations of his civil rights. He proceeds *pro se* and he has not paid the filing fee. After reviewing all of the pleadings as required by 28 U.S.C. § 1915A, the Court concludes that this case must be **dismissed** for reasons that follow.

I. DISCUSSION

Alexander sues Dr. Minino, who reportedly works as a dentist at the Harris County Jail. Alexander complains that Dr. Minino refused to write him a prescription for antibiotics to treat “a sore gum.” Alexander seeks \$100,000 in damages and he further demands that Dr. Minino lose his job and his license.

A national prisoner index reflects that Alexander has lodged over fifty civil actions in the federal courts, including transfers. Six of these actions and one appeal were dismissed as frivolous, malicious, or for failure to state a claim on which relief may be granted. *See Alexander v. 19th Judicial District Court*, No. 3:03cv794 (M.D. La.); *Alexander v.*

Biaimonte, et al., No. 3:00cv915 (M.D. La.); *Alexander v. Troyer*, No. 2:95cv1126 (E.D. La.); *Alexander v. Delabertoe, et al.*, No. 2:92cv1777 (E.D. La.); *Alexander v. Gasaway*, No. 2:02cv3253 (E.D. La.); *Alexander v. Tangipohoa Parish Jail, et al.*, No. 2:91cv2254 (E.D. La.); and the appeal in *Alexander v. Troyer*, No. 2:95cv1126 (E.D. La.). When Alexander filed five of the above-referenced actions (*Alexander v. Biaimonte, et al.*, No. 3:00cv915 (M.D. La.); *Alexander v. Troyer*, No. 2:95cv1126 (E.D. La.); *Alexander v. Delabertoe, et al.*, No. 2:92cv1777 (E.D. La.); *Alexander v. Tangipohoa Parish Jail, et al.*, No. 2:91cv2254 (E.D. La.); and the appeal in *Alexander v. Troyer*), he was incarcerated in a prison or a detention facility. Each of those cases was dismissed before Alexander filed this case. Thus, Alexander had no fewer than five strikes against him for filing frivolous lawsuits prior to filing the present action.

Under 28 U.S.C. § 1915(g), a prisoner is not allowed to bring a civil action *in forma pauperis* in federal court if, while incarcerated, three or more of his civil actions or appeals were dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, unless he is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g); *Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996). The pleadings in this case, which reflect a disagreement with the level of treatment provided and not a denial of care, show that Alexander is not under imminent danger of serious physical injury.

This Court notes that the federal district courts in Louisiana have already barred at least three of Plaintiff's complaints based on his prior dismissals which counted as strikes under 28 U.S.C. § 1915(g). *See Alexander v. Jeannonie, et al.*, No. 1:01cv484 (W.D. La.);

Alexander v. Moore, No. 2:96cv2513 (E.D. La.); and *Alexander v. Pinion, et al.*, No. 2:00mc404 (E.D. La.). Two cases filed by Alexander recently in the Southern District of Texas have also been dismissed as barred by the three-strikes rule found in § 1915(g). See *Alexander v. State of Texas*, No. H-06-2609 (S.D. Tex. Aug. 15, 2006); *Alexander v. Officer Duncan*, No. H-06-2907 (S.D. Tex. Oct. 10, 2006). The Court concludes, therefore, that summary dismissal is warranted in this case as well.


II. CONCLUSION AND ORDER

Accordingly, the Court **ORDERS** as follows:

1. This cause of action is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915(g).
2. Plaintiff may refile his complaint if he pays the filing fee in full (\$ 350.00) within thirty days of the date of this order.

The Clerk will provide copies of this order to the parties; the Clerk will also provide a copy of this order by regular mail, facsimile transmission, or e-mail to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas, 75702, Attention: Manager of the Three-Strikes List.

SIGNED at Houston, Texas, on **November 21, 2006**.


Nancy F. Atlas
United States District Judge